

**Onsite Wastewater Treatment System Model Law  
Public Information Session Notes  
7-11-16 6pm to 8 pm  
Vine Valley Community House  
Approximately 75 participants**

**Comment 1: Who gives the onsite wastewater treatment system permit?**

This is a home rule law. Therefore, the permit is issued by the Town through the code enforcement officer.

**Comment 2: Are these all new regulations or do some of these already exist?**

Some of the components of the law are already in place, such as the design standards for new construction, some towns have the deed transfer component, and all failed systems need to be upgraded. However, the current onsite wastewater treatment system laws are not consistent across the towns in the watershed. The new components mainly consist of the 5 year inspections, the need to upgrade substandard systems at the time of property transfer (within 200 feet of the lake), and mandatory inspections at the time of property /deed transfer.

**Comment 3: Is greywater considered sewage?**

Greywater is considered sewage. We do not want food particles or laundry soap going into the lake. Therefore, greywater shall be put through the onsite wastewater treatment system.

**Comment 4: Does the 200 foot zone include streams that run to the lake?**

No, the 200 foot zone does not include streams. It only includes 200 feet from the lake's mean high water mark.

**Comment 5: I am a seasonal user. We do not have a washer and are only there on the weekends. Therefore, we may use much less water than a typical home or a "resort" home. Do we still need the higher design load?**

There is an appeals process for those that would like to request an exemption from components of the law. If you believe you use significantly less water than a typical home and would like to appeal the higher design load requirements, you can go through the appeals process. We will also look at this aspect to see if there is a way to allow for this within the law. However, use can change over time and it is difficult to regulate this way.

**Comment 6: Is someone going to help pay for the new systems if a system needs to be upgraded? Are you looking into grants to help pay for this and help out property owners? Not everyone on the lake is wealthy.**

There are already a few grants available to property owners to help with onsite systems. The Bishop Sheen Foundation and the Keuka Housing Council are available. There are many other towns with onsite laws and none of them provide funding to the property owners. Also, upgrades are only required for substandard systems if the absorption area is within 200 feet of the lake and at the conveyance of real property, which is when money is more liquid.

**Comment 7: I have an enhanced treatment unit (ETU) and I pay for someone to come service my unit each year. Every 5 years, why should I pay for an extra inspection of my system?**

Continue to get your ETU serviced each year. Then, during your 5 year inspection cycle year, ask the manufacturer's representative to also look at your absorption area and distribution box. The 5 year inspection can be combined with your annual maintenance and be done by your manufacturer's representative if they are a registered inspector.

**Comment 8: Is there a list of substandard systems that can be put online? Will someone buying a home be able to call somewhere to determine if the system in the prospective house is substandard?**

George Barden already has an excellent working relationship with many realtors. They often call him to ask about a system when they are going to sell or buy a house. George provides them with as much information as he has available. This follows procedures in New York State for property disclosure. The inspection information is also public and can be FOILED.

**Comment 9: What is the cost for a private contractor to complete an inspection?**

The private companies can set their own price, so we can't say what the exact cost will be. George Barden charges \$175 for the inspection. However, this does not include the cost of getting the tank pumped. The tank must be pumped at the time of the inspection.

**Comment 10: What happens during an inspection?**

The inspection procedures follow the 6-page OTN checklist. The inspector will go through the 6-page list. Not every part of the checklist will be relevant for each system, so the inspector only does the portions that are relevant.

**Comment 11: How do you know if a system is failing?**

There is a very specific set of criteria in the law that defines a failing system. The authority having jurisdiction will look to see if any of the criteria are met.

**Comment 12: Given the definition of failure, there will be many systems that will automatically be considered in failure on the day the law is enacted simply because the parcel is below the 10 year flood elevation. How many parcels will be unbuildable due to this definition or how many systems will be in failure simply due to the parcel elevation? There should be a map used to identify which parcels may be completely within the 10 year flood zone and may be impacted by this.**

The 10 year flood elevation is 690.00 feet above sea level. For systems on properties below the 10 year flood elevation, the system must meet the design standards to the greatest extent possible and will likely involve some sort of enhanced treatment unit or pumping back uphill behind the house. If a system is both below the 10 year flood elevation and within 100 feet of the lake, that system is likely putting nutrients and pathogens into the lake. It is therefore in the best interest of the property owner to upgrade their system for the safety of themselves and their neighbors.

**Comment 13: For steep slopes, is the 200 foot measurement a slope or horizontal measurement?**

The 200 foot zone is defined as 200 horizontal feet from the mean high water mark of Canandaigua Lake.

**Comment 14: What if the entire parcel is within 200 feet of the lake?**

This system will need to meet the design standards to the greatest extent possible. It will likely involve the use of an enhanced treatment unit.

**Comment 15: If a company is already completing an inspection of an enhanced treatment unit twice a year, is the Watershed Inspector notified?**

It depends on the company. Many of them already do send George notification of the inspection, but not all of them. By enactment of this proposed law, they will all be required to.

**Comment 16: Are there any regulations against ground application of nutrients?**

NYS Ag and Markets is in charge of the ground application of manure. We are also working with local farms to try to reduce field erosion to protect the lake. NYS has also

regulated phosphorus application to lawns. You can't apply any fertilizer with phosphorus on a lawn unless you have a soil test that shows your soil is deficient. Most soil testing in our area conducted by Cornell Cooperative Extension shows that our soils have enough phosphorus in them and do not need any applied.

**Comment 17: Is there any data available that shows how much phosphorus is coming from onsite systems versus agriculture and other sources?**

We cannot monitor the effluent of the near shore onsite systems to determine phosphorus concentrations and loadings. There is significant research from across the country to show that inadequate onsite systems don't sufficiently remove phosphorus and are a water quality issue. We do have information that effluent leaving the septic tank has on average about 10mg/L of phosphorus. EPA and DEC both consider onsite systems to be a significant pollutant issue that needs to be properly managed.

To determine the relative contributions of onsite systems versus other sources, we would need to use computer models. We have several of these models and the models require many assumptions and may not actually reflect the real situation. There are over 173 systems along the lake that we have little to no information on to know if they are functioning properly or are a source of nutrients. We definitely have other sources of nutrients to the lake - residential development, agriculture, road bank, stream bank along with in lake issues such as Quagga mussels. We will always have multiple sources of nutrients to the lake and we need to address each source we have control over.

**Comment 18: Are there enough contractors to complete the work?**

George will be holding additional OTN trainings prior to the enactment of this law to ensure there are enough contractors available. Plus, George intends to hold a refresher course for those OTN inspectors we now have to explain how the OTN standardized procedures and reporting format will apply to the adopted local law.

**Comment 19: What is the best type of onsite wastewater treatment system?**

There is no easy answer, because it all depends on the site conditions at each individual property. Each site is different, so the best system is determined on an individual basis.

**Comment 20: There is an expense to property owners for the inspection and upgrades. Could you provide a tax rebate or credit to encourage people to do this? Many properties are passed down to family members, so the upgrade requirements would not apply to them.**

This comment will be passed along to the municipalities, but I do not think this is a viable option.

**Comment 21: Is this law creating a power shift to the inspectors? Is there a list of registered OTN inspectors?**

The inspectors do not decide what needs to be upgraded on a system and do not make the final determination if a system is substandard or failing. Each inspection report is reviewed by the authority having jurisdiction, acting as an audit of each inspection. The authority having jurisdiction then works with the property owner and an engineer to determine the best solution if an upgrade is needed. This creates a set of checks and balances, so the inspectors do not have the power to tell a property owner that they must upgrade a system. We will publish a list of OTN registered inspectors for property owner's reference.

**Comment 22: Should the law be phased in over a 2 year period? The first phase would be inspections to get a sense of how many systems require upgrades. I had to wait 6 months to upgrade my system.**

The law is designed to have a lag time for contractors. Only 1/5 of the properties requiring inspection will be completed in the first year. Then property owners will not be required to upgrade until the conveyance of real property and only if the absorption area is within 200 feet of the lake. There will be a lag between the 5-year inspection and the conveyance of real property.

**Comment 23: The lake needs help. Realtors are getting calls from perspective buyers that they do not want to buy where the blue green algae was found last year. We don't want the value of our homes to decrease like other lakes in the area that have blue green algae more often. While some failed systems have held up real estate deals for months, I am able to remove contingencies within 48 hours for many sales.**

George provides realtors with records of inspections and system upgrades. This can increase the value and sale-ability of the property. Reducing nutrients from entering the lake from the multiple potential sources is the only feasible way we have in controlling Blue Green Algae blooms.

**Comment 24: The Keuka Housing Council has funding for low income residents in Yates County that need help upgrading their systems. The Bishop Sheen Foundation also has funding available.**

**Comment 25: This law is where the effluent meets the affluent.**

**Comment 26: We need to work together as a community and as a lake. Blue green algae takes down everyone together. We have seen much success in the Town of Geneva and on Keuka Lake. Many people fear this because they feel there is a high level of uncertainty. However, they will deal with the specifics of your situation and are very sensitive to residents. I hope this law passes.**

**Comment 27: Is there a timeframe for passing the law?**

No. It is up to each town to pass the law, as this is a home rule state. Each town will need to decide how they would like to proceed. It should be noted that this law was formed with input from each town. We had a committee of code enforcement officers, planning board chairs, and the Association. We are holding meetings this summer to ensure seasonal residents get the information and can provide comments.

**Comment 28: Can you appeal a decision that a system is in failure and still use the system?**

Yes. The property owner may need to keep the tank pumped down so that the system does not create a public health threat while they find a solution.

**Comment 29: This is a model base law. However, there should be a minimum standard that each town needs to adopt to hold them accountable and ensure they are not slacking.**

New York is a home rule state, so it is up to each town to choose what they will pass. We have tried to integrate the needs of all the towns from the beginning and have utilized all of the town attorney comments. We hope that the law is as uniform as possible across the towns to make it easier for contractors and realtors.

**Comment 30: Do you have any sense of the number of Canada geese on the lake and all of the phosphorus they contribute? They are on the lake all year long.**

DEC is working to ramp up hunting permits for them. They are a problem. Residents can discourage them from coming on their lawn by planting buffers.

**Comment 31: Why does an aerobic system require an additional 5 year inspection?**

They do not require an additional inspection. During your 5 year inspection year, ask your manufacturer's representative if they are a registered inspector and to complete

inspection when they come to do your annual maintenance. That will be sufficient for the 5 year inspection.

**Comment 32: For seasonal owners, can the 5 year inspection cycle be lessened? We are a couple that lives in a 900 square foot cottage for only a few months each year.**

It would be very difficult to determine the actual usage of a seasonal resident. We would not know if the place is rented to more people than just the owners. However, some communities have been able to move the inspection cycle to every 10 years after they have gotten through the first couple inspection cycles.

**Comment 33: Can the list of OTN registered inspectors be made available now? Some residents may want to use this even before the law is enacted. Also, is there a list of manufacturer's representatives and distributors for aerobic units that can be made available?**

We can make those lists available.

**Comment 34: Can all OTN inspectors do aerobic systems?**

No. Manufacturer's representatives are responsible for completing inspections on all enhanced treatment units.